

## REMARKS

### *Status of the Claims*

Claims 5-12, and 20-76 are pending, with Claims 5, 21, 22, 24, 26, 30, 38, 40-42, 44-47, 59, 67, 68, and 70-73 being independent. Claims 5 and 76 have been amended. Support for the claim changes can be found in the original disclosure, for example in Figs. 1-7 and the accompanying description, and therefore no new matter has been added.

### *Requested Action*

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding objection and rejections in view of the foregoing amendments and the following remarks.

### *Claim Objection*

Claim 76 was objected to for a minor informality therein and the Examiner has suggested language for overcoming the objection. In response, while not conceding the propriety of the objection, Claim 76 has been amended as suggested by the Examiner. Therefore, Applicants respectfully request that this objection be withdrawn.

### *Formal Claim Rejections*

Claim 6 was rejected under 35 U.S.C. § 112, first paragraph, because it is allegedly inconsistent with Claim 5, and Claims 5-12, 20, and 74-76 were rejected under 35 U.S.C. § 112, second paragraph, for an informality in Claim 5. In response, while not conceding the propriety of the rejections, Claim 5 has been amended. Applicants submit that as amended

Claims 5 and 6 now even more clearly satisfy 35 U.S.C. § 112, first and second paragraphs. Therefore, Applicants respectfully request that this objection be withdrawn.

#### *Substantive Claim Rejections*

Claims 5, 8, 10, 20 and 74-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0162523 (Darrell et al.) in view of U.S. Patent Publication No. 2001/0012064 (Kubo). Claims 5, 7-9, 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2001/0032070 (Teicher) in view of Kubo. Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Teicher in view of Kubo, and further in view of U.S. Patent Publication No. 2002/0180873 (Misawa).

In response, while not conceding the propriety of the rejections, independent Claim 5 has been amended. Applicants submit that as amended, this claims is allowable for the following reasons.

Independent Claim 5 relates to a digital camera comprising a capturing unit that captures a subject image, a storing unit that stores the subject image captured by said capturing unit on a storage medium, and a retrieving unit that performs a retrieval operation of an image from the subject image stored on the storage medium. Independent Claim 5 also recites that the capturing unit captures a generic image to be retrieved or a key image to be used as a retrieval key of the retrieval operation according to the operation of a shutter button.

Claim 5 has been amended to recite that when the capturing unit captures a key image to be used as a retrieval key of the retrieval operation, the retrieving unit performs

the retrieval operation using the key image. Claim 5 has also been amended to recite that the capturing unit further captures an image during the retrieval operation and the retrieving unit does not perform a new retrieval operation using a new key image when the capturing unit captures the new key image in response to pressing the shutter button only during the retrieval operation.

In contrast, the citations to Darrell et al., Kubo, and Teicher are not understood to disclose or suggest that a capturing unit captures an image during the retrieval operation and a retrieving unit does not perform a new retrieval operation using a new key image when the capturing unit captures the new key image in response to pressing the shutter button only during the retrieval operation, as recited by amended Claim 5. The Office Action admits that the Darrell et al. and Teicher citations do not show a capturing unit capable of capturing an image during a retrieval operation, where no new retrieval is initiated. For that reason, the Office Action cites the Kubo publication. But this publication is understood to merely disclose a digital camera that a) has a memory card 40a and a magnetic disk card 49b, b) in response to detecting a release operation, captures an image into an image memory 21, and writes the captured image into the memory card 40a or the magnetic disk card 40b read from the image memory, c) cannot capture the next image unless the digital camera removes the current image from the image memory, d) uses the memory card 40a as a buffer memory in the event the magnetic disk card 40b is a target disk for storing the image, thereby reducing the waiting time for capturing the next image, since the memory card is faster than the magnetic disk, and f) if any one of the memory card and the magnetic disk is used for any other process, the other one is used as a buffer, thereby quickly releasing the image memory. In other words, the Kubo citation is

understood to merely teach that the digital camera uses one of its storing media as the buffer to reduce the waiting time by quickly removing the current image from the image memory, thereby suggesting parallel writing to different media. As a result, this citation is not understood to perform image retrieval and image capture in parallel. Moreover, when there is an instruction for image capturing, the Kubo citation is understood to perform image capturing and image writing simultaneously. In contrast, amended Claim 5 recites that the retrieving unit does not perform a new retrieval operation using a new key image when the capturing unit captures the new key image in response to pressing the shutter button only during the retrieval operation. Thus, these two operations are not performed simultaneously.

The Office Action cites paragraph [0139] as disclosing that while one recording medium is processing and saving, the camera functions for image capture are still available to the user to capture and save onto the other recording medium. But this paragraph is not understood to disclose or suggest that during a retrieval operation for a key image when a new key image is captured, a new retrieval operation using the new key image is not performed in response to pressing shutter button only during this retrieval operation, as can be seen by reviewing Fig 11 and this paragraph, which is reproduced here:

[0139] FIG. 11 shows a form of parallel processing performed on the recording medium 40d which is not the subject of recording. The CPU 17 performs the first task execution which is shown in FIG. 7, thereby to record a captured image, which has been generated in response to a photographing operation and temporarily stored in the image memory 21, on the recording medium 40c selected as a subject of recording. On the other hand, the CPU 17 carries out the second task execution in parallel with the first task execution on the condition that the image memory 21 has free space, thereby to perform the task shown in FIG. 7 in parallel. Such parallel processing enables the execution of a

photographing operation in the background of the task of recording a captured image on the recording medium 40c which is the subject of recording.

Since amended Claim 5 is understood to recite at least one feature not disclosed or suggested by the citations to Darrell et al., Kubo, and Teicher, Applicants submit that the Office has not yet satisfied its burden of proof to establish a prima facie case of obviousness against amended Claim 5. Therefore, Applicants respectfully request that the rejections of amended Claim 5 be withdrawn.

The dependent claims are also submitted to be patentable, due to their dependency from the independent base claims, as well as due to additional features that are recited. Individual consideration of the dependent claims is respectfully solicited.

### *Conclusion*

In view of the above amendments and remarks, the application is now in allowable form. Therefore, early passage to issue is respectfully solicited.

Any fee required in connection with this paper should be charged to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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